IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO.920 of 2005

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders

Mr.S.M.Dharap with Mrs. Anjali N.Helekar, for the Petitioner

Mr.C.R.Sonawane, AGP for Respondent Nos. 1 to 3.

Mrs. M.H.Doshi for Respondent No.4.
Mr.A.E. Deshmukh, for the Respondent No.5.

CORAM : F.I.REBELLO & MRS.R.S.DALVI,JJ.
DATED : 5th December 2005
P.C.

. Rule. Heard forthwith. Pursuant to the order of this Court dated November 28, 2005, an additional affidavit has been filed by Bipin D. Mohite. From the affidavit it appears that the Official Liquidator instead of drawing up the priority himself has got the sanction of the District Deputy Registrar. That would clearly be not an exercise in jurisdiction which is conferred on the Official Liquidator. Once an Official Liquidator is appointed for the society in liquidation it is the Offical Liquidator who will do all acts. Any party aggrieved by his action is entitled to challenge the same in proceedings which may

become available.

2. In the instant case the Official Liquidator was appointed in July, 2003. The District Deputy Registrar on 15th March, 2004 directed the Official Liquidator to pay certain amounts to the respondent No.5 which are in a sum of Rs.82,60,000/- which was lying with the Sholapur District Central Co-operativeBank Ltd., which has now been transferred to respondent No.5. Though the bank had an award in their favour in 2001 the amount has been directed to be paid only on 15th March, 2004 i.e. after July, 2003. Such an exercise was clearly without jurisdiction as all amounts available in July, 2003 and amounts recovered after July, 2003 will have to be distributed amongst the secured and unsecured creditors in the order of priority. Considering the above, the petition can be disposed of by issuing the following directions:-

(i) The sum of Rs.82,60,000/- lying with Respondent No.5 will be held by the respondent No.5 on account of Official Liquidator. That amount will bear interest at F.D. rate given by the bank. The respondent No.5, in the event directions are

given by the Official Liquidtor, to refund the money or part of the money along with interest which is given for fixed deposits for the term, the amount is lying with them.

(ii) The Official Liquidator after hearing all parties who may file their claim or have interest to pass fresh order as to the secured creditors and unsecured creditors and thereafter distribute the money in terms of the order of priority to which they are entitled.

(iii) This exercise to be completed at any rate not leter than four months from 15th December, 2005.

(iv) All parties who have claim and who have notice of these proceedings to appear before the Official Liquidator on 15th December, 2005 at 11.00 a.m. for further directions. The Official Liquidator, in respect of parties who are not before him and who have interest and/or claim, may issue notice to those parties so that they can also be heard before final order is passed.

(v) All earlier orders passed by the Official Liquidator in terms of priority of debts or payment of moneys to respondent No.5 are quashed and set aside. Rule made absolute accordingly. No order as to costs.

(F.I. REBELLO, J.)

(MRS.R.S. DALVI, J.)